

### **REMARKS**

This amendment responds to the final Office Action mailed March 26, 2007. Claims 1-25 remain pending in the Application, and claims 3, 4, 7-9, 11, and 12 were withdrawn in view of a restriction requirement. Claims 1, 5, 6, and 13-25 stand rejected. Claims 1 and 16 have been amended. Applicants respectfully request reconsideration in view of the following remarks.

#### **Claims Rejected Under 35 U.S.C. §102**

Claims 1, 5, 6, 16, 17, 19, and 24 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,162,234 to Freedland et al. Claim 16 has been rewritten in independent form so that claims 1 and 16 are the only independent claims of this rejected group. Claim 1 has been amended herein to recite that the tensioning portion of the shank member "comprises gripping structure that is separate and discrete from said outer gripping surface of said shank member." Support for this amendment can be found in the Application at page 16, line 15 – page 17, line 18, and with reference to FIGS. 11 and 12. Accordingly, no new matter has been added by this amendment.

Applicants assert that amended claim 1 is not taught, or even suggested, by Freedland '234 because Freedland '234 fails to teach or suggest a linear fastener having a shank with a tensioning portion that includes gripping structure that is separate from the outer gripping surface. Even if the shaft 111 of Freedland '234 were capable of being tensioned while the collet member is in the release position, Freedland '234 fails

to disclose separate gripping structure for tensile loading the shaft 111. For at least this reason, Applicants respectfully request that the rejection of claim 1 be withdrawn.

Claims 5, 6, 17, 19, and 24 each depend from independent claim 1, and are therefore in condition for allowance for at least the reasons discussed above with respect to claim 1. Accordingly, Applicants respectfully request that the rejections of 5, 6, 17, 19, and 24 over Freedland '234 be withdrawn.

Applicants respectfully traverse the rejection of claim 16 because Freedland '234 fails to teach, or even suggest, a fastener system "wherein said tensioning portion includes a frangible stem, whereby said frangible stem is severed from said first end of said shank member when said shank member reaches a predetermined tension," as set forth in claim 16 (emphasis added). A dictionary definition of "frangible" is "easily broken." Webster's II New College Dictionary (2001). In contrast to the frangible stem recited in claim 16, Freedland '234 only discloses a shaft 111 that may be "cut off" to remove excess length. (See Freedland '234 at col. 12, lines 39-40; col. 18, lines 46-49; and col. 19, lines 46-47.) A shaft that must be cut off, such as by sawing or using a bolt cutter, is not the same as a frangible stem. Moreover, Freedland '234 fails to teach or suggest a shank member having a frangible stem that is severed from the first end when the shank member reaches a predetermined tension, set forth in claim 16. Rather, the shaft of Freedland '234 is randomly cut off to remove excess length. Freedland '234 wholly fails to teach or even suggest that the shaft is cut off at any particular tension; it is simply up to the user to decide when to cut off the excess length. For at least the reasons discussed above, Applicants respectfully request that the

rejection of claim 16 over Freedland '234 be withdrawn.

**Claims Rejected Under 35 U.S.C. §103**

Claims 13-15, 18, 20-23, and 25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Freedland '234. Each of claims 13-15, 18, 20-23, and 25 depends from independent claim 1 and are therefore in condition for allowance for at least the reasons discussed above with respect to claim 1. Applicants further traverse the rejections of claims 13-15 because Freedland '234 fails to teach or suggest a shank member having a tensioning portion that includes at least one internal bore, as recited in claim 13; wherein the internal bore includes threads, as recited in claim 14; or wherein the internal bore includes at least one groove, as recited in claim 15. Moreover, the Office Action fails to cite a single reference that discloses such features on a shank member of a linear fastener. For at least the reasons discussed above, Applicants respectfully request that the rejections of claims 13-15, 18, 20-23, and 25 over Freedland '234 be withdrawn.

**Examination of Withdrawn Claims**

Claims 3, 4, 7-9, 11, and 12 were withdrawn from examination as non-elected species. Because generic claims 1, 6, or 13-25 are in condition for allowance, Applicants respectfully request examination of the withdrawn claims.

**Conclusion**

In view of the foregoing amendments to the claims and the remarks set forth herein, Applicants believe this case is in condition for allowance and respectfully request allowance of the pending claims. If the Examiner believes any issue requires further discussion, the Examiner is respectfully asked to telephone the undersigned attorney so that the matter may be promptly resolved. The Examiner's prompt attention to this matter is appreciated.

Applicants do not believe that any fees are due in connection with this submission. However, if any additional fees are necessary to complete this communication, the Commissioner may consider this to be a request for such and charge any necessary fees to Deposit Account No. 23-3000.

Respectfully submitted,

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